

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Land Rent Amendment Bill 2013

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(As presented)

(Treasurer)

Land Rent Amendment Bill 2013

A Bill for

An Act to amend the *Land Rent Act 2008* and the *Land Rent Regulation 2008*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Land Rent Amendment Act 2013*.

4 **2 Commencement**

5 This Act commences on 1 October 2013.

6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).

8 **3 Legislation amended**

9 This Act amends the *Land Rent Act 2008* and the *Land Rent*
10 *Regulation 2008*.

11

1 **Part 2** **Land Rent Act 2008**

2 **4 Application of Act**
3 **Section 5 (2)**

4 *substitute*

5 (2) In this section:

6 *single dwelling house*—see the [territory plan](#).

7 *single dwelling house lease* means a residential lease that authorises
8 use of the land under the lease for a single dwelling house.

9 **5 Application to pay land rent**
10 **Section 7 (1)**

11 *after*

12 applications

13 *insert*

14 from eligible applicants

15 **6 Section 7 (2) and (3)**

16 *before*

17 applicant

18 *insert*

19 eligible

- 1 **7 New section 7 (5)**
- 2 *insert*
- 3 (5) In this section:
- 4 *eligible applicant*, in relation to a proposed ballot or direct sale of a
- 5 single dwelling house lease, means a person who has been granted a
- 6 discount under section 12 for a land rent lease no earlier than
- 7 6 months before the day of the ballot or direct sale.
- 8 *single dwelling house lease*—see section 5 (2).
- 9 **8 Section 8 heading**
- 10 *substitute*
- 11 **8 Pre-1 October 2013 lease—land rent payable**
- 12 **9 New section 8 (1A)**
- 13 *before subsection (1), insert*
- 14 (1A) This section applies to a land rent lease first granted under a contract
- 15 entered into before 1 October 2013.
- 16 **10 Section 8 (1) and (2)**
- 17 *omit*
- 18 a land rent lease
- 19 *substitute*
- 20 the land rent lease

1 **11 New section 8AA**

2 *in part 2, insert*

3 **8AA Post-1 October 2013 lease—land rent payable**

4 (1) This section applies to a land rent lease first granted under a contract
5 entered into on or after 1 October 2013.

6 (2) The land rent payable for the land rent lease for the year the lease is
7 first granted is the discount percentage of the unimproved value of
8 the parcel of land under the lease.

9 *Note* Land rent is payable to the commissioner (see s 19).

10 (3) The land rent payable for the land rent lease for a year after the year
11 the lease is first granted is the lesser of—

12 (a) the discount percentage of the unimproved value of the parcel
13 of land under the lease; and

14 (b) the amount worked out as follows:

$$\text{land rent payable for the previous year} \times \left(1 + \frac{\text{relevant percentage}}{\text{percentage}} \right)$$

15 (4) In this section:

16 *land rent payable for the previous year* means the land rent that
17 would have been payable for the lease if it had been a land rent
18 lease, leased to the lessee, for the whole of the previous year.

19 *unimproved value*, of a parcel of land under a land rent lease for a
20 year, means the unimproved value—

21 (a) for subsection (2)—determined under the *Rates Act 2004*,
22 section 9 (First determination of unimproved value) for the
23 year; and

1 (b) for subsection (3)—determined under the *Rates Act 2004*,
2 section 10 (1) (Annual redeterminations) for the year.

3 **12 New section 9A**

4 *insert*

5 **9A Total income of lessee**

6 (1) The Minister may determine how the total income of a lessee is
7 worked out.

8 (2) A determination is a disallowable instrument.

9 *Note* A disallowable instrument must be notified, and presented to the
10 Legislative Assembly, under the *Legislation Act*.

11 **13 Discount—application**
12 **Section 10 (2) (a)**

13 *before*

14 income

15 *insert*

16 total

17 **14 Section 10 (3) (b)**

18 *substitute*

19 (b) for a pre-1 October 2013 lease—at any time during the term of
20 the lease.

- 1 **15 Discount—eligibility**
2 **Section 11 (1) (b)**
- 3 *omit*
4 or all of the lessees
5 *substitute*
6 or the sum of the total incomes of all the lessees
- 7 **16 Section 11 (1), new note 1**
- 8 *insert*
9 *Note 1* The Minister may determine how the lessee's total income is worked
10 out (see s 9A).
- 11 **17 Discount—decision on application**
12 **Section 12 (3), including notes**
- 13 *substitute*
14 (3) If the commissioner grants the discount, the discount applies from—
15 (a) if the application for the discount was made before the grant of
16 the lease—the day the lease is granted; or
17 (b) in any other case—the day on which the application for the
18 discount was received by the commissioner.
- 19 **18 Discount—review of eligibility**
20 **Section 14 (4) (a)**
- 21 *before*
22 income
23 *insert*
24 total

- 1 **19 Section 15 heading**
- 2 *substitute*
- 3 **15 Pre-1 October 2013 lease—loss of eligibility for discount**
- 4 **because of income**
- 5 **20 Section 15 (1)**
- 6 *substitute*
- 7 (1) This section applies—
- 8 (a) to a land rent lease first granted under a contract entered into
- 9 before 1 October 2013; and
- 10 (b) if a lessee under the lease, who was previously eligible to pay
- 11 discounted land rent for a year, becomes ineligible for the
- 12 discount because the total income of the lessee, or the sum of
- 13 the total incomes of all of the lessees, is more than the income
- 14 threshold amount.
- 15 **21 Section 16 heading**
- 16 *substitute*
- 17 **16 Pre-1 October 2013 lease—loss of eligibility for discount**
- 18 **for other reasons**
- 19 **22 Section 16 (1)**
- 20 *substitute*
- 21 (1) This section applies—
- 22 (a) to a land rent lease first granted under a contract entered into
- 23 before 1 October 2013; and

- 1 (b) if a lessee under the lease, who was previously eligible to pay
2 discounted land rent for a year, becomes ineligible for the
3 discount because—
- 4 (i) the lessee, or any of the lessees, becomes the owner of
5 other real property; or
- 6 (ii) if a certificate of occupancy is issued for the lease—all
7 the lessees stop living on the parcel of land under the
8 lease.

9 **23 New section 16AA**

10 *in division 3.1, insert*

11 **16AA Post-1 October 2013 lease—loss of eligibility to pay land**
12 **rent**

- 13 (1) This section applies—
- 14 (a) to a land rent lease first granted under a contract entered into
15 on or after 1 October 2013; and
- 16 (b) if any of the following happens:
- 17 (i) the total income of the lessee under the lease, or the sum
18 of all the total incomes of all of the lessees, is more than
19 the income threshold amount for 2 consecutive years;
- 20 (ii) the lessee, or any of the lessees, becomes the owner of
21 other real property;
- 22 (iii) if a certificate of occupancy is issued for the lease—all
23 the lessees stop living on the parcel of land under the
24 lease.
- 25 (2) The commissioner must give each lessee under the lease written
26 notice that the lessee is not eligible to pay land rent.

1 (3) If a lessee is given a notice under subsection (2), the lessee must
2 within 2 years after the day the notice is given—

3 (a) vary the lease to reduce the land rent payable to a nominal rent;
4 or

5 (b) transfer the lease to an eligible transferee.

6 *Note* The lessee must apply under the *Planning and Development Act 2007*,
7 s 272A (Application for rent payout lease variation) for a variation of the
8 lease to reduce the rent payable to a nominal rent.

9 **24 New section 16C**

10 *in part 4, insert*

11 **16C Transfer of post-1 October 2013 lease**

12 (1) This section applies to a land rent lease first granted under a contract
13 entered into on or after 1 October 2013.

14 (2) The land rent lease may only be transferred to—

15 (a) an eligible transferee; or

16 (b) if, on application of a lessee under the lease, the commissioner
17 decides it is appropriate that paragraph (a) should not apply—
18 someone other than an eligible transferee.

19 *Note 1* See s 8AA for how the land rent payable under the transferred lease is
20 worked out.

21 *Note 2* If a form is approved under the *Taxation Administration Act*, s 139C for
22 this provision, the form must be used.

23 (3) The Minister may determine—

24 (a) matters that the commissioner must take into account in
25 making a decision under subsection (2) (b); and

26 (b) circumstances when it is appropriate that subsection (2) (a) not
27 apply; and

1 (c) a person to whom a lease may be transferred under
2 subsection (2) (b).

3 *Note* Power to make a determination in relation to a person includes power to
4 make provision in relation to a class of people (see
5 [Legislation Act](#), s 48 (2)).

6 (4) A determination is a disallowable instrument.

7 *Note* A disallowable instrument must be notified, and presented to the
8 Legislative Assembly, under the [Legislation Act](#).

9 **25 Section 17 heading**

10 *substitute*

11 **17 Transfer of pre-1 October 2013 lease—land rent**

12 **26 Section 17 (1)**

13 *substitute*

14 (1) This section applies if a land rent lease (other than a lease to which
15 section 16C applies) is transferred.

16 **27 Section 17 (2)**

17 *omit*

18 (Land rent—discount for part of year)

19 *substitute*

20 (Land rent for pre-1 October 2013 lease—discount for part of year)

28 **New section 26A**

2 *insert*

26A **Sale of post-1 October 2013 lease for loss of eligibility to pay land rent**

- 5 (1) This section applies if—
- 6 (a) a land rent lease is held by a lessee under a lease from the
7 Commonwealth for a term of years; and
- 8 (b) the commissioner has given the lessee a notice under
9 section 16AA (2) (Post-1 October 2013 lease—loss of
10 eligibility to pay land rent) in relation to the land rent lease;
11 and
- 12 (c) the lessee has not within 2 years after the day the notice is
13 given—
- 14 (i) varied the lease to reduce the land rent payable to a
15 nominal rent; or
- 16 (ii) transferred the lease to an eligible transferee.
- 17 (2) The commissioner may apply to a court of competent jurisdiction
18 for an order for the sale of—
- 19 (a) the land rent lease; and
- 20 (b) any improvements made on or to the parcel of land under the
21 land rent lease.
- 22 (3) In the application, the commissioner may ask that the proceeds of
23 the sale also be applied in paying the total amount of any land rent,
24 land tax or rates in arrears for the land rent lease, and any land rent,
25 land tax or rates in arrears for 1 or more related parcels of land
26 stated in the application.

- 1 (4) If the court is satisfied that this section applies to the land rent lease,
2 the court must—
- 3 (a) order the sale by public auction of the land rent lease, and any
4 improvements made on or to the parcel of land under the land
5 rent lease, to pay the total of the following:
- 6 (i) costs and expenses in relation to the declaration,
7 application and sale in relation to the lease;
- 8 (ii) if the commissioner has made a request mentioned in
9 subsection (3) in the application in relation to the lease or
10 another parcel of land—
- 11 (A) the total amount of any land rent, land tax or rates in
12 arrears for the lease at the time the court makes the
13 order; and
- 14 (B) if the court is satisfied that a parcel is a related
15 parcel of land—the total amount of any land rent,
16 land tax or rates in arrears for the other parcel, at the
17 time the court makes the order; and
- 18 (b) order that the proceeds be paid into court; and
- 19 (c) order that the title to the lease be transferred to the purchaser
20 free from mortgages and other encumbrances.

21 **29 Sale of land rent lease—application of proceeds**
22 **Section 27 (1)**

- 23 *after*
24 section 26
25 *insert*
26 or section 26A

1 **30 Section 27 (2) (b)**
2 *after*
3 section 26 (4) (a) (i) to (iii) (A)
4 *insert*
5 or section 26A (4) (a) (i) to (ii) (A)

6 **31 Section 27 (2) (d)**
7 *after*
8 section 26 (4) (a) (iii) (B)
9 *insert*
10 or section 26A (4) (a) (ii) (B)

11 **32 Section 27 (6) (b)**
12 *substitute*
13 (b) if the commissioner has made a request under section 26 (3) or
14 section 26A (3) in the application in relation to any land rent,
15 land tax or rates in arrears for the land rent lease—the total
16 amount of any land rent, land tax or rates in arrears for the land
17 rent lease at the time of the payment; and

18 **33 Section 27 (6) (e)**
19 *after*
20 section 26 (3)
21 *insert*
22 or section 26A (3)

- 1 **34** **Sale of land rent lease—application of proceeds without**
2 **court order**
3 **Section 28 (1)**
- 4 *after*
5 section 26
6 *insert*
7 or section 26A
- 8 **35** **Land rent—part of year**
9 **Section 29 (3), definition of *land rent otherwise payable***
10 ***for year***
- 11 *substitute*
- 12 *land rent otherwise payable for year* means the land rent that would
13 have been payable for the lease if it had been a land rent lease,
14 leased to the lessee, for the whole of the year.
- 15 **36** **Section 30 heading**
- 16 *substitute*
- 17 **30** **Land rent for pre-1 October 2013 lease—discount for part**
18 **of year**
- 19 **37** **Section 30 (1)**
- 20 *after*
21 land rent lease
22 *insert*
23 first granted under a contract entered into before 1 October 2013

1 **38 Section 33**

2 *substitute*

3 **33 Objections**

4 The following decisions are prescribed for the [Taxation](#)
5 [Administration Act](#), section 100 (Objection):

6 (a) a decision under section 12 (Discount—decision on
7 application);

8 (b) a decision to give a notice under section 16AA (2)
9 (Post-1 October 2013 lease—loss of eligibility to pay land
10 rent).

11 *Note* Objections relating to the commissioner's determination of the
12 unimproved value of a parcel of land are dealt with under the
13 [Rates Act 2004](#), s 71.

14 **39 New part 10**

15 *insert*

16 **Part 10 Transitional—Land Rent**
17 **Amendment Act 2013**

18 **50 Pre-1 October 2013 lease—application to pay land rent**

19 (1) This section applies if—

20 (a) a person enters into a contract for the grant of a land rent lease
21 before 1 October 2013; and

22 (b) a land rent lease has not been granted to the person before
23 1 October 2013.

24 (2) Section 7, and the [Land Rent Regulation 2008](#), section 3, as in force
25 immediately before the commencement of the [Land Rent](#)
26 [Amendment Act 2013](#), section 4 continue to apply to the person.

1 **51 Transitional regulations**

- 2 (1) A regulation may prescribe transitional matters necessary or
3 convenient to be prescribed because of the enactment of the *Land*
4 *Rent Amendment Act 2013*.
- 5 (2) A regulation may modify this part (including in relation to another
6 territory law) to make provision in relation to anything that, in the
7 Executive's opinion, is not, or is not adequately or appropriately,
8 dealt with in this part.
- 9 (3) A regulation under subsection (2) has effect despite anything else in
10 this Act or another territory law.

11 **52 Expiry—pt 10**

12 This part expires on 1 October 2015.

13 *Note* Transitional provisions are kept in the Act for a limited time.
14 A transitional provision is repealed on its expiry but continues to have
15 effect after its repeal (see [Legislation Act](#), s 88).

16 **40 Dictionary, note 2**

17 *insert*

- 18 • domestic partner (see s 169 (1))
19 • territory plan

20 **41 Dictionary, new definition of *eligible transferee***

21 *insert*

22 *eligible transferee*, in relation to the transfer of a land rent lease,
23 means a person who has been granted a discount under section 12 in
24 relation to the lease no earlier than 6 months before the day the lease
25 is transferred.

1 **42 Dictionary, definition of *land rent***

2 *substitute*

3 *land rent* includes—

4 (a) the costs and expenses reasonably incurred by the Territory in
5 attempting to recover the land rent; and

6 (b) interest payable in relation to the land rent.

7 **43 Dictionary, new definition of *own***

8 *insert*

9 *own*, in relation to real property, includes having a legal or
10 beneficial interest in the property.

1 **Part 3** **Land Rent Regulation 2008**

2 **44** **Application to pay land rent—Act, s 7 (2)**
3 **Section 3**

4 *before*
5 applicant
6 *insert*
7 eligible

Endnotes**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 15 August 2013.

2 Notification

Notified under the [Legislation Act](#) on 2013.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
